

CHEVY CHASE VILLAGE
BOARD OF MANAGERS
SEPTEMBER 12, 2011 MEETING

STAFF REPORT

TO: BOARD OF MANAGERS
FROM: SHANA R. DAVIS-COOK, VILLAGE MANAGER 
DATE: 9/7/2011
SUBJECT: REPEAL OF MANDATORY REFERRAL POLICY FOR APPLICATIONS TO USE THE PUBLIC RIGHT-OF-WAY, PURSUANT TO THE BOARD'S ADOPTION OF RESOLUTION NO. 09-02-11

In December of 2010, the Board approved a "Temporary Policy to Have the Village Manager Submit all Administrative Permit Requests to the Board of Managers for Comment Before a Building Permit and License for Private Improvements in the Village's Public Rights-of-Way Are Issued". The Board enacted this policy to ensure that the administrative issuance of permits to install private improvements in the Village's public rights-of-way did not result in adverse impacts on these rights-of-way, until such time as the Code could be revised to address these concerns.

At the Board's regular meeting on September 12, 2011, the Board will consider adoption of Resolution No. 09-02-11, which will permit the Building Officer (a Board designee) and the Village Manager to administratively issue Building Permits and Licenses to Use the Public Right-of-Way for private improvements pursuant to Section 8-30 of the Village Code. If approved, repeal of the aforementioned temporary policy will be necessary.

Action Requested

Board action is requested to repeal the "Temporary Policy to Have the Village Manager Submit all Administrative Permit Requests to the Board of Managers for Comment Before a Building Permit and License for Private Improvements in the Village's Public Rights-of-Way Are Issued", effective September 27, 2011.

Attachments

"Repeal of Temporary Policy"
"Temporary Policy to Have the Village Manager Submit all Administrative Permit Requests to the Board of Managers for Comment Before a Building Permit and License for Private Improvements in the Village's Public Rights-of-Way Are Issued"



Repeal of Temporary Policy

On this 12th day of September, 2011, the Chevy Chase Village Board of Managers, acting under and by virtue of the authority given it by the Act of Legislature approved March 28, 1951, and Acts subsequent thereto, Article 23A of the Maryland Code, and the Chevy Chase Village Charter, does hereby repeal in its entirety, the mandatory referral policy adopted on December 13, 2010 and entitled "Temporary Policy to Have the Village Manager Submit all Administrative Permit Requests to the Board of Managers for Comment Before a Building Permit and License for Private Improvements in the Village's Public Rights-Of-Way are Issued", subsequent to its adoption of Resolution No. 09-02-11, entitled "An Ordinance to amend Sections 8-27, 8-29, 8-30 and 8-31 of the Chevy Chase Village Code to provide that Licenses to Devote the Public Right of Way to Private Use may be issued only by the joint action of the Building Officer and the Village Manager; to provide that licenses shall be recorded in the Montgomery County Land Records unless recordation is waived; and to amend Section 6-2(a)(22) to establish a lower fee for licenses that are not recorded".

The foregoing shall take effect on the 27th day of September, 2011.

Patricia S. Baptiste, Chairman
Chevy Chase Village Board of Managers

ATTEST:

Allison W. Shuren, Secretary

DATED: September 12, 2011



**Temporary Policy to Have the Village Manager Submit all Administrative
Permit Requests to the Board of Managers for Comment
Before a Building Permit and License for Private Improvements
in the Village's Public Rights-Of-Way are Issued**

RECITALS

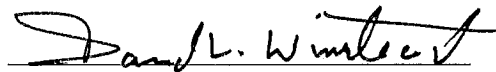
1. Chevy Chase Village is an incorporated municipality established pursuant to Article XI-E of the Maryland Constitution.
2. Article 23A, Section 2(a) of the Maryland Code, as amended, authorizes the legislative body of each municipal corporation in the State of Maryland to pass ordinances that such legislative body deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, property and privileges, to preserve peace and good order, and to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and
3. Section 77-14 of the Chevy Chase Village Charter authorizes the Chevy Chase Village Board of Managers to pass ordinances as it may deem necessary for the health, safety or welfare of Chevy Chase Village; for the protection and preservation of Chevy Chase Village property, rights and privileges; for the preservation of peace and good order and for securing persons and property from violence, danger and destruction; and for the suppression and abatement of nuisances; and
4. Chevy Chase Village possesses a special character which includes, but is not limited to, open vistas along streets and sidewalks; and

5. The Chevy Chase Village Board of Managers has determined that the installation of fences, walls, hedges, shrubbery, trees, walkways, overhead and underground wires, cables, hoses and pipes, hereinafter referred to as "private improvements" in the public right of way may have a negative impact on the public health, safety and welfare; and
6. The Board of Managers has deemed it necessary to evaluate whether the Village Code Sections controlling the issuance of Licenses regulating the installation of private improvements in the public right of way should be amended; and
7. Among the requirements for a License to use the Public Right-of-Way are that the private improvement not adversely affect the public health, safety and welfare nor the reasonable use of adjoining properties, and that the issuance of the License is consistent with the purpose and intent of Chapter 8 of the Village Code, and
8. The continued administrative review of applications for the installation of private improvements in the public right of way may adversely impact the Village's special character and could exacerbate the negative and injurious impact these installations may have on the Village; and
9. The Board of Managers finds that temporarily directing the Village Manager to submit all administrative applications for permits and licenses for private improvements in a public right of way to the Board of Managers for comment before a Building Permit and License is issued is necessary to ensure improvements will not have an adverse impact on the public health, safety and welfare.

Now, therefore, on this 13th day of December, 2010, the Chevy Chase Village Board of Managers, acting under and by virtue of the authority given it by the Act of Legislature


approved March 28, 1951, and Acts subsequent thereto, Article 23A of the Maryland Code, and the Chevy Chase Village Charter that:

1. Recitals. The recitals set forth above are incorporated in this Policy as the findings of the Board of Managers.
2. Temporary Policy. A temporary policy is hereby established on the administrative processing of Building Permit Applications and Licenses to Use the Public Right-of-Way to install private improvements in the public right of way. The Village Manager is hereby directed to submit all applications for the above-referenced private improvements in the public rights-of-way, including all related materials, to the Board of Managers for its review and comment prior to the issuance of any permit or license.
3. Term. This policy shall become effective immediately upon its passage and shall remain in effect until repealed by the Board of Managers.



David L. Winstead, Chairman
Chevy Chase Village Board of Managers

ATTEST:



Peter M. Yeo, Secretary

DATED: January 10, 2011

